

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

IN RE:	§	Case No. 19-10926-tmd
	§	
ORLY GENDER,	§	
	§	
Debtor.	§	Chapter 7

**MOTION FOR CONTINUANCE OF HEARINGS ON (A) EXPEDITED MOTION FOR
ORDER TO SHOW CAUSE [DOCKET NO. 42] AND (B) MOTION FOR AN ORDER,
PURSUANT TO BANKRUPTCY RULE 9018 AND SECTION 107(B) OF THE
BANKRUPTCY CODE, AUTHORIZING SAGI GENDER TO FILE UNDER SEAL
CERTAIN OF THE EXHIBITS AND PORTIONS OF THE MOTION TO DISMISS
BANKRUPTCY CASE OR, ALTERNATIVELY, TO TRANSFER VENUE [DOCKET
NO. 31]**

NOW COMES Eric Herschmann (“Herschmann” of “Movant”), through his counsel, files its Motion requesting a continuance of the October 11, 2019 Hearings on the (a) Expedited Motion for Order to Show Cause (“Show Cause Motion”)[Docket No. 42] and (b) Motion for an Order, Pursuant to Bankruptcy Rule 9018 and Section 107(b) of the Bankruptcy Code, Authorizing Sagi Genger to File Under Seal Certain of the Exhibits and Portions of the Motion to Dismiss Bankruptcy Case or, Alternatively, to Transfer Venue (“Motion to Seal”) [Docket No. 31] the (collectively the “Motions”) and respectfully states as follows (“Motion for Continuance”).

1. The Court set expedited hearings on the Motions for October 11, 2019 beginning at 9:30 a.m.

2. Mr. Herschmann is the Debtor’s spouse and a secured creditor in these proceedings. Many of the allegations made and the relief requested in the Motions directly relate to or affect Herschmann and his interests. Specifically the Motions call into question his relationship to the Kasowitz firm and documents produced to Sagi Genger under a protective order issued by the U.S. District Court for the S.D.N.Y.

3. The undersigned counsel for Herschmann has a previously scheduled vacation, out of state, departing on October 10, 2019 and returning on October 13, 2019 with non-refundable airfare and has incurred other non-reimbursable expenses. The undersigned is a sole practitioner and his inability to be present at the hearing on the Motions would be highly prejudicial to Herschmann.

4. Further, the date of the hearing, October 11, is the Friday immediately preceding the Jewish holiday of Sukkot that Sagi and Mr. Herschmann and many of the counsel of record in this case celebrate.

5. Finally, on September 27, 2019, the Chapter 7 Trustee filed his Application Under Federal Rule of Bankruptcy Procedure 9019 and Local Rule 9019 to Approve Compromise (“9019 Motion”) which contemplates retention of the Kasowitz, Benson & Torres LLP (“Kasowitz”) law firm as special counsel for the Chapter 7 Trustee. Retention of the Kasowitz firm will be the subject of a separate submission before this Court. The Show Cause Motion would more appropriately be taken up in connection with the Chapter 7 Trustee’s application to employ Kasowitz.

6. The undersigned counsel conferred with counsel for Sagi Genger before filing this Motion for Continuance. Sagi Genger’s counsel opposed Movant’s request “For the reasons stated in the Motion to Show Cause . . .”. Good cause exists to continue the hearing on the Motions for the reasons stated hereinabove. Sagi Genger will not be prejudiced by a continuance.

7. Movant requests a continuance until after October 14th, 2019 but would submit that these matters should be heard in concert with the hearings on the 9019 Motion which has not been set as of this date and in any be rescheduled during the week of November 4, 2019.

WHEREFORE, Debtor respectfully requests the Court to continue the hearing on the Motions for the first available date and grant such further relief as is just and proper.

Respectfully submitted September 30, 2019.

THE LAW OFFICES OF RAY BATTAGLIA, PLLC.
66 Granburg Circle
San Antonio, Texas 78218
Telephone (210) 601-9405

By: /s/ Raymond W. Battaglia
Raymond W. Battaglia
Texas Bar No. 01918055

ATTORNEYS FOR ERIC HERSCHMANN

CERTIFICATE OF CONFERENCE

I hereby certify that on September 23 through 25th, 2017, I contacted the counsel for Ron Satija, Chapter 7 Trustee, Chief Genger, Arie Genger, and the Broser parties. Each advised that they do not oppose the continuance. On September 26, 2019, I contacted counsel for Sagi Genger who advised that they opposed the continuance for the reason stated hereinabove.

/s/ Ray Battaglia
Ray Battaglia

CERTIFICATE OF SERVICE

On September 30, 2019 a true and correct copy of the foregoing document was filed with the Court and served electronically upon those parties registered to receive electronic notice via the Court's CM/ECF system, as set forth below. I further certify that it has been transmitted by first class mail to the following

Eric Herschmann
210 Lavaca St., Unit 1903
Austin, TX 78701-4582

Internal Revenue Service
Centralized Insolvency Operations
PO Box 7346
Philadelphia, PA 19101-7346

Kasowitz, Benson, Torres LLP
Attn: Daniel Benson, Esq.
1633 Broadway, 21st Floor
New York, NY 10019-6708

United States Trustee
903 San Jacinto, Suite 230
Austin, TX 78701-2450

Zeichner Ellman & Krause LLP
1211 Avenue of the Americas, 40th Floor
New York, NY 10036-6149

Eric J. Taube
Waller Lansden Dortch & Davis, LLP
100 Congress Ave., Suite 1800
Austin, TX 78701-4042

Orly Genger
210 Lavaca St., Unit 1903
Austin, TX 78701-4582

Ron Satija
P.O. Box 660208
Austin, TX 78766-7208

Arie Genger
c/o Deborah D. Williamson
Dykema Gossett PLLC
112 East Pecan St., Suite 1800
San Antonio, TX 78205

Aaron M. Kaufman
Dykema Gossett PLLC
Comerica Bank Tower
1717 Main St., Suite 4200
Dallas, TX 75201

Arie Genger
19111 Collins Ave., Apt. 706
Sunny Isles, FL 33160-2379

SureTec Insurance Co.
c/o Clark Hill Strasburger
901 Main Street, #6000
Dallas, Texas 75202

Sagi Genger
c/o John Dellaportas
Emmt Marvin & Martin LLP
120 Broadway, 32nd Floor
New York, NY 10271-3291

The Orly Genger 1993 Trust
c/o Jay Ong
Munsch Hardt Kopf & Harr PC
303 Colorado Street, #2600
Austin, Texas 78701

Zeichner Ellman & Krause LLP
1211 Avenue of the Americas
40th Floor
New York, NY 10036-6149

Brian Cumings
Graves Dougherty Hearon & Moody
401 Congress Avenue Suite 2700
Austin, Texas 78701

Shelby A. Jordan
Jordan Hyden Womble Culbreth & Holzer, PC
500 N Shoreline Suite 900 N
Corpus Christi, TX 78401

/s/ *Raymond Battaglia*
RAYMOND BATTAGLIA